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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/810,175	03/26/2004	Jerald C. Seelig	619.708	8014
21707 7590 11/08/2007 IAN F. BURNS & ASSOCIATES P.O. BOX 71115 RENO, NV 89570			EXAMINER COBURN, CORBETT B	
			ART UNIT 3714	PAPER NUMBER
			MAIL DATE 11/08/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

CT

**Office Action Summary**

Application No.

10/810,175

Applicant(s)

SEELIG ET AL.

Examiner

Corbett B. Coburn

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09 October 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-42 is/are pending in the application.
- 4a) Of the above claim(s) 23-32 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-22 & 33-42 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Election/Restrictions*

1. Examiner acknowledges Applicant's election of claims 1-22 & 38-42 with traverse. Examiner has reviewed Applicant's arguments & finds them persuasive.
2. The slot machines in groups I & III appear to work on fundamentally different principles. The slot machine in group I determines the movement of indicators based on a random number. Group III appears to use a sensor to detect the position of the indicators. However, Examiner must agree that claims 33, 34 & 37 contain elements that are common to claims 1 & 2. This suggests that instead of a restriction between these two groups of claims, an election of species requirement would have been better. Therefore, Examiner will combine groups I & III and consider it the elected invention.
3. Examiner will, however, require an election of species between the following patentably distinct species:
  - a. A device where the display characters move in a choreographed manner. (Claim 3)
  - b. A device with a light source to illuminate the indicia. (Claim 4)
  - c. A device where the display character indicates a multiplier indicium. (Claim 5)
  - d. A device in which the display characters move in a straight line. (Claims 6-8)Note: If Applicant elects these claims and contends that there is a patentable distinction between horizontal and vertical movement, Applicant must select either 7 or 8 for prosecution.

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e. A device where the indicia appear on the display characters. (Claims 10-12)

Note: If Applicant elects these claims & contends that claims 11 & 12 are patentably distinct, then Applicant must elect one of the claims for prosecution.

f. A device with two movable indicators, one indicating a prize & the other a multiplier. (Claims 13 & 14) Note: Examiner interprets “mathematical combination” to include multiplication of prize value by multiplier. Should Applicant intend this to mean something else, Applicant should clarify claim 14 & elect it separately from claim 13.

g. A device with a player input device. (Claims 15, 16, 36)

h. A device with LEDs on the changeable display. (Claim 18)

i. A device with a changeable prize display configured to display a plurality of indicia. (Claim 20)

j. A device with a speaker. (Claim 21)

k. A device with a positioning mechanism/sensor configured to detect the position of the display characters. (Claims 22, 35) Note: Should “positioning mechanism” and “sensor” diverge, a further election might be necessary.

4. The species are independent or distinct because they are combinations usable together.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claims 1, 2, 9, 17, 19, 33, 34 & 37 are generic.

5. Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable

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thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which depend from or otherwise require all the limitations of an allowable generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

6. Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

Should applicant traverse on the ground that the inventions or species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions or species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C.103(a) of the other invention.

7. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the

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application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

#### Examiner's Notes

8. In order to aid Applicant in prosecuting the case, Examiner provides the following notes/observations:

- a. As written, the generic claims read on Fey's Reliance (updated to include modern computer technology). With the status of the new rules package in a state of flux, Applicant may wish to amend the generic claims with this in mind.
- b. Claim 2 & 34 apply to any physical device – all physical constructs are three-dimensional.
- c. Claim 9 & 37 require an actuator to move the display characters. This is common to all mechanical devices that have moving parts.
- d. Claim 17 requires the indicia to be on the changeable display. Examiner interprets "changeable display" to include the entire viewable portion of the device. Thus as long as the indicia are viewable, they are on the changeable display.
- e. Similarly, since each indicium represents a prize, the indicia will inherently be displayed on the prize display. (See Claim 19)

#### *Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Corbett B. Coburn whose telephone number is (571) 272-4447. The examiner can normally be reached on 8-5:30, Monday-Friday, alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Pezzuto can be reached on (571) 272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Corbett B. Coburn/  
Primary Examiner  
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